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SIPDIS

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SUBJECT: KAZAKHSTAN: 2007-2008 INCSR, PART II, FINANCIAL CRIMES AND
MONEY LAUNDERING

REF: A. STATE 138130
[1](#)B. ASTANA 2323

[1](#)1. In response to reftel A, the text of Part II of the 2007-2008
International Narcotics Control Strategy Report (INCSR), Financial
Crimes and Money Laundering for Kazakhstan follows.

SUMMARY

[1](#)2. Kazakhstan, with its developed and modern banking system, has
become a financial center in Central Asia. Kazakhstan's economic
success and its geographic location present challenges in the fight
against organized crime, extremism, narcotics trafficking, and
terrorist financing. In response, Kazakhstan is taking proactive
measures against financial crimes. The GOK has drafted anti-money
laundering legislation and is planning to establish a Financial
Intelligence Unit. The property legalization process officially
finished on August 1, 2007 and the GOK can now focus on enacting the
long-delayed legislation. In general, the GOK remains a willing
partner in the fight against narcotics and terrorism. End summary.

GENERAL QUESTIONS

REGIONAL FINANCIAL CENTER

[1](#)3. On June 5, 2006, the Parliament enacted and the President signed
a law establishing a regional financial center in Almaty (RFCA).
The RFCA is empowered to develop the Kazakhstani securities market,
facilitate Kazakhstan's integration into international markets,
attract investment, and introduce Kazakhstani securities into the
global market.

[1](#)4. The RFCA is developing benefits for its members, including total
or partial relief from corporate income tax, free business
registration, and visa support for non-residents of Kazakhstan.
Members of RFCA can be only officially registered companies holding
a license for brokers' and dealers' activities and having an office
in the city of Almaty.

[1](#)5. The volume of trade at the RFCA for the period from July 2006 to
July 2007 was USD 43 million. According to the official statistics
of the Agency on Combating Financial Crime and Corruption (financial
police) there were no criminal cases of money laundering related to
RFCA activity. Kazakhstan has become the regional business center

of Central Asia because of its rapidly developing economy, developed banking and financial system, and rich oil and gas resources.

¶16. During the first 9 months of 2007, there were 225 criminal cases initiated under the fraudulent business article of the Criminal Code, and 54 cases of fraudulent legalization of assets in the total amount of USD 31.7 million.

¶17. The number of economic crimes for the first nine months of 2007 (6895 cases) is less in comparison with the same period last year (7056). During the period, there were 56 cases of fraudulent use or application for credit; 254 cases of fraud; and 139 cases of counterfeiting currency and/or securities.

OFFSHORE FINANCIAL CENTERS

¶18. Kazakhstan is not an offshore financial center. There are no offshore companies or banks in the country. Existing legislation does not favor offshore banks and offshore financial centers. There are representative offices of 26 foreign banks in the country, including Dutch, Turkish, Chinese, German and Russian financial institutions.

FREE TRADE ZONES

¶19. Following the signing of the Free Trade Zone Agreement by the Heads of the CIS countries in Moscow on April 15, 1994, Kazakhstan signed separate Free Trade Zone agreements with Azerbaijan, Belarus, Georgia, Kyrgyzstan, Russia, Tajikistan, and Uzbekistan. The main function of the Free Trade Zones is to create an easy flow of goods

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and services between CIS countries, to stabilize internal economies, and to allow for trade on mutually advantageous terms.

¶110. In 2000, Belarus, Kazakhstan, Kyrgyzstan, Russia, and Tajikistan signed an agreement to establish the Eurasian Economic Union (Evrases). Uzbekistan joined Evrases in 2006. Armenia, Moldova and Ukraine have observer status. Evrases was created to facilitate regional economic integration and establish a customs union. It is not yet clear whether these free trade arrangements are being used to further trade-based money laundering schemes or terrorism-financing.

¶111. According to a March 2006 Interfax-Kazakhstan news agency report, China opened the Maikapchagai-Zimunai cross border shopping area on the border with the East Kazakhstan oblast (EKO). The EKO Department for Entrepreneurship and Industry announced that the shopping center was officially opened on March 28 under an agreement signed between the administrations of the EKO and the Altay district of the Xinjiang Uygur Autonomous Region of China on January 26, 2006. Kazakhstanian citizens can visit the shopping area for one day without a visa and may bring back a total of 50 kilos and less than USD 1,000 duty-free. Kazakhstanian merchants may import goods valued less than 50,000 tenge (USD 400) to the marketplace duty-free, or goods worth 80,000 tenge (USD 630) at a reduced customs rate. If the value of goods is more than 80,000 tenge (USD 630) they are subject to all Chinese taxes and duties.

¶112. In July 2007, China started construction of the Khorgos International Trade Center on the Kazakhstan-China border per a 2005 agreement with Kazakhstan. This center was established to promote trade, economic, and investment cooperation. Citizens of both countries have visa free access to the territory of the center for up to 30 days. The simplified customs and border procedures are expected to improve the economies on both sides of the border. In May 2007, the Almaty Oblast Police Department signed a protocol with the Xinjiang Uygur Autonomous Region of China providing for cooperation to combat illegal migration, drug trafficking, and terrorism and allowing for the exchange of information. This agreement establishes procedures to observe passport controls and other laws in Khorgos. According to media reports, there has been a

recent increase in cash smuggling from Kazakhstan to China by Chinese citizens at this border crossing point.

LAW AND REGULATIONS TO PREVENT MONEY LAUNDERING
AND FINANCING TERRORISM

¶13. Kazakhstan has ratified the 1988 UN Drug Convention, and in December 2000, the country signed the UN Convention against Transnational Crime. On February 24, 2003, Kazakhstan ratified the UN International Convention for the Suppression of the Financing of Terrorism. Kazakhstan is also a signatory to the Central Asian Agreement on the Joint Fight Against Terrorism, Political and Religious Extremism, Transnational Organized Crime and Illicit Drug Trafficking (which was signed in April 2000 by Kazakhstan, Kyrgyzstan, Tajikistan, and Uzbekistan).

¶14. The Agency on Combating Economic Crime and Corruption has developed draft legislation to ratify the UN Convention against Corruption. It is expected to be passed before the end of the year. The GOK is also working to join the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime signed in Strasbourg, November 8, 1990. Kazakhstan must receive approval from all EU members to join the Convention.

¶15. Money laundering is criminalized in Kazakhstan by Article 193 of the Criminal Code of the Republic of Kazakhstan. The definition of money laundering used in the act, however, is narrow and the sanctions against it relatively light (a maximum of three years imprisonment, increased to five for multiple offenses). A further limit to the effectiveness of the law is that bank records may not be examined until after a criminal case has been initiated. However, the draft of the Anti-Money Laundering and Countering Financing of Terrorism legislation (AML/CFT) would require banks and other financial organizations to send information on all suspicious transactions to the Financial Intelligence Unit (FIU) for analysis.

¶16. Kazakhstan is in the last stages of adopting an AML/CFT law and establishing an FIU. The adoption of AML/CFT legislation was made a high priority by President Nazarbayev in his initiative against corruption, and the Procurator General's Office took the lead on drafting the AML/CFT legislation. The Procurator General's Office

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expects the legislation on AML/CFT, introduced in September 2005, to be passed sometime by the end of 2007 or beginning of 2008.

¶17. Parliament had postponed consideration of draft AML/CFT legislation until completion of the implementation of property legalization amnesty in 2006. Under the terms of the amnesty legislation, citizens seeking to legalize property were required to pay a fee in the amount of 10% of the property's value. This rule did not apply to residential homeowners, whose property was legalized at no cost. The legalization process was concluded on August 1, 2007 (reftel B).

¶18. The fact that the Procurator General's Office (PGO), the most powerful and influential law enforcement body in the country, coordinated the drafting of AML/CFT legislation indicates that Kazakhstan has a vested interest in preventing money laundering. The PGO has taken on the responsibility within the GOK to ensure that the provisions of the AML/CFT law and the function of the FIU will meet international standards and become effective means of combating money laundering and related financial crimes.

¶19. The initial plan was to establish the FIU as a Committee under the PGO, which developed and introduced the draft of the Presidential Decree with the detailed structure of the FIU to Prime Minister's Office. According to the most recent information from the PGO, the FIU (to be called the Committee on Financial Monitoring) is expected to be established within the Ministry of Finance. The draft 2008 state budget includes USD 1.7 million for establishment of the proposed FIU. Details of the FIU structure and the number of employees are still under discussion.

FINANCIAL SECTOR

¶20. A Presidential Decree of February 25, 2005 re-organized the Agency on Combating Economic Crimes and Corruption into a separate governmental agency reporting directly to the President.

¶21. Currently, the Agency on Combating Economic Crimes and Corruption, the PGO, and the Agency for the Regulation and Inspection of the Financial Market and Financial Organizations are authorized to supervise all aspects of financial institutions. In the future, the supervision and examination of financial institutions for compliance with AML/CFT laws and regulations will be the responsibility of the PGO.

¶22. Currently, banks and other financial institutions are not required to know, record, or report the identity of customers engaged in significant transactions. The new AML/CFT law is expected to remedy this problem by requiring all banks to send information regarding suspicious transactions to the FIU.

¶23. The Agency for the Regulation and Inspection of the Financial Market and Financial Organizations, in conjunction with a new regulation adopted on August 27, 2005, requires the maintenance of adequate records to reconstruct significant transactions at financial institutions. Second-tier banks, for example, are required to keep records for five years on correspondence regarding the opening of currency accounts and investment activities, deals made through export and import operations, and documents related to payments made to foreign and international banks and organizations.

¶24. Statutory requirements for limiting and monitoring the international transportation of currency and monetary instruments, as well as all cross-border currency reporting requirements, are governed by the Rules on Currency Transactions of April 20, 2001, and by the Rules on Declaring Foreign and National Currency by Individuals Entering and Leaving the Republic of Kazakhstan of May 13, 2004. According to the Rules, a Kazakhstani resident is required to fill out a declaration form if he/she is planning to leave the country with more than USD 3,000 equivalent in foreign currency and must provide supporting documents verifying the source of funds if taking more than USD 10,000 out of the country. Non-residents leaving Kazakhstan are also allowed a maximum of USD 3,000 without submitting a declaration form. The amount of national currency that may be taken out of the country by residents or non-residents is unlimited, and there are no reporting requirements. There are no limitations or reporting requirements on the amounts of national or foreign currency being transported into the country by either residents or non-residents.

¶25. According to the Criminal Procedural Code and the Law of the Republic of Kazakhstan about public protection of individuals participating in the criminal process during the investigation of the criminal case, witnesses, suspects and, accused individuals, and members of their families and close relatives are under safety

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measures. Special departments in law enforcement agencies are responsible for the safety of witnesses and victims.

TERRORIST FINANCING

¶26. Kazakhstan plays an active role in the region in combating terrorism. Kazakhstan is implementing United Nations Security Council Resolution 1373 and all the related resolutions on combating terrorism. According to the Committee of National Security (KNB), the activities of 14 terrorist organizations, including Al Qaeda and the Taliban, are prohibited in Kazakhstan. The Zhamaat Mojakhed Central Asia organization is also prohibited in Kazakhstan and was included into the consolidated list of terrorist organizations by the UN Security Council.

¶27. Financing of extremism and terrorist activity is criminalized by Article 233-3 of the criminal Code of Kazakhstan. The penalty for terrorism financing is up to five years of imprisonment for the first offense, and eight years for repeat offences. The

Antiterrorist Center of the KNB is responsible for combating all forms of terrorism.

CASH SMUGGLING

¶28. Article 209 of the Criminal Code stipulates that any illegal contraband (including currency) that crosses the borders of Kazakhstan with falsified documentation may result in the confiscation of the property, a fiscal penalty, arrest, and/or a jail sentence of up to three years. The severity of the punishment is based on several factors, including whether the action is a repeat offense or if it is connected to the activities of an organized crime group.

ASSET FORFEITURE AND SEIZURE LEGISLATION

¶29. Criminal and civil forfeitures are defined by the Criminal and Civil Codes of the Republic of Kazakhstan. Article 31 of the Law on Combating Narcotics, Psychotropic Substances, and Precursors stipulates that narcotics or psychotropic substances and precursors as well as the means of producing illegal narcotic substances, including property and finances, are subject to seizure by the government.

INTERNATIONAL COOPERATION

¶30. Kazakhstan is an active member of the Eurasian Group (EAG) on money laundering established on October 6, 2004. Other members are Russia, Belarus, Uzbekistan, Kyrgyzstan, Tajikistan, and China. In October 2007, the GOK hosted an EAG working group meeting on typologies of money laundering and held consultations with the private sector on anti-money laundering efforts.

¶31. In 2006-2007, the USG continued to assist Kazakhstan's anti-money laundering and crime efforts in several ways through the Embassy's Office of International Narcotics and Law Enforcement (INL).

¶32. In March 2005, INL funded a computer laboratory at the Financial Police Academy in Astana. The Academy specializes in training future financial police and customs officers in the skills required to recognize and investigate money laundering schemes as well as to combat corruption and other economic crimes. The computer laboratory is an important resource for future INL trainings as well as for the Academy itself. Enhancement of the Financial Police Academy provides a long-term impact on the GOK's ability to effectively police its financial system and to control money laundering related to terrorism, narcotics trafficking, tax evasion, and corrupt activities by GOK officials.

¶33. In May and September 2005, INL, in cooperation with the PGO, held a series of four seminars at PGO offices in both Almaty and Astana on the draft AML/CFT legislation and the establishment of an FIU. The goal of these seminars was to help the GOK develop the regulatory structure needed to enforce the provisions of the AML/CFT legislation, to prepare the GOK to enter various organizations related to the Financial Action Task Force on Money Laundering (FATF), to train second-tier banks to meet AML/CFT requirements, and

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to help the GOK establish an effective FIU. The lead training agency was the U.S. Department of Treasury's Office of Technical Assistance (OTA).

¶34. In November 2007, under the auspices of INL, personnel from OTA trained financial police officers and representatives of the PGO in financial crime detection techniques. This course was in addition to four earlier courses in investigative techniques. This training will enhance the ability of law enforcement officers in combating financial crimes.

¶35. INL continued to provide and arrange training and equipment to the Statistics Division of the PGO, which targets drug trafficking organizations operating in Kazakhstan. This equipment was provided as part of a larger project aimed at improving the collection of criminal statistics in Kazakhstan, especially those related to the GOK's efforts to combat narcotics trafficking and anti-money laundering activities.

¶36. The GOK is a willing partner in the fight against terrorism, and it is making major strides to identify potential money laundering activities connected to international terrorism and narcotics trafficking. If adopted and implemented, the draft AML/CFT legislation and the establishment of an FIU will help Kazakhstan become an active member in the Egmont Group.

ORDWAY